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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 CAROLYN BURKS,
12 Plaintiff,
13 v.
14 JOHN E POTTER,
15 Defendant.

No. C06-05211 MJJ

ORDER DISMISSING CASE

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17 Before the Court is Plaintiff Carolyn Burks' ("Plaintiff") inadequate response to the Court's
18 Order to Show Cause. (Docket No. 8.)

19 In order to bring suit against the United States or its agencies, Plaintiff must comply with
20 Federal Rule of Civil Procedure 4(i). This rule provides that service must be effected "by delivering
21 a copy of the summons and of the complaint to the United States Attorney for the district in which
22 the action is brought" or to a designated assistant United States attorney or clerical employee, or by
23 sending a copy of the summons and complaint to the civil process clerk at the United States
24 attorney's office by registered or certified mail. FED. R. CIV. P. 4(i)(1)(A). Plaintiff must also send
25 a copy of the summons and complaint to the Attorney General of the United States in Washington
26 D.C. by registered or certified mail. *Id.* at 4(i)(1)(B). Finally, where an employee or agency of the
27 United States is sued, Plaintiff must send a copy of the summons and complaint to the employee or
28 agency by registered or certified mail. *Id.* at 4(i)(2)(A). Service must be made within 120 days after
the complaint is filed. *Id.* at 4(m).

United States District Court
For the Northern District of California

1 On November 11, 2006, this Court issued an Order to Show Cause why Plaintiff's claims
2 should not be dismissed for failure to prosecute, pursuant to Federal Rule of Civil Procedure Rule
3 41(b). (Docket No. 3.) On November 30, 2007, Plaintiff filed a response with the Court, explaining
4 that service was executed on the Attorney General and the Postmaster General. Plaintiff, however,
5 only filed proof that service was executed on the Postmaster General.

6 On October 22, 2007 the Court issued a second Order to Show Cause why Plaintiff's claims
7 should not be dismissed for failure to prosecute. The Court noted that Plaintiff had not submitted the
8 appropriate proof of service as required by Federal Rule of Civil Procedure 4(i).

9 On November 5, 2007, Plaintiff submitted a timely response to the Court's Order. While
10 Plaintiff asserted that service was executed on the Attorney General and the Postmaster General,
11 Plaintiff did not attach proof of such service. (*See* Docket No. 7.) Plaintiff also did not assert, much
12 less offer proof, that service was executed on the United States Attorney for the district in which the
13 action was brought. *See* Fed. R. Civ. P. 4(i)(1)(A). The Court therefore **ORDERS** this case
14 dismissed for failure to prosecute. The Clerk of the Court is directed to close the file and vacate all
15 future dates.

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17 **IT IS SO ORDERED.**

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20 Dated: November 19, 2007

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MARTIN J. JENKINS
UNITED STATES DISTRICT JUDGE